

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTIETH LEGISLATURE

FIFTY-THIRD LEGISLATIVE DAY
THURSDAY, MARCH 4, 2010

Senate Chamber

President Little called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Cameron, Coiner, McKague, and Stegner, absent and excused; and Senator Keough, absent and formally excused by the Chair.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Peter Olson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 3, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senator Cameron was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

March 4, 2010

The JUDICIARY AND RULES Committee reports that [S 1392](#), [S 1393](#), [S 1394](#), [S 1395](#), and [S 1396](#) have been correctly printed.

DARRINGTON, Chairman

[S 1392](#), [S 1393](#), [S 1394](#), [S 1395](#), and [S 1396](#) were referred to the Finance Committee.

March 3, 2010

The JUDICIARY AND RULES Committee reports that [S 1265](#), [S 1266](#), [S 1306](#), [SCR 121](#), [SCR 122](#), and [SJM 103](#) have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled [S 1265](#), [S 1266](#), [S 1306](#), [SCR 121](#), [SCR 122](#), and [SJM 103](#) and ordered them transmitted to the House for the signature of the Speaker.

March 3, 2010

The JUDICIARY AND RULES Committee reports out [S 1382](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, [S 1382](#) was referred to the Fourteenth Order of Business, General Calendar.

Senator Coiner was recorded present at this order of business.

March 3, 2010

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

William B. Booth to the Northwest Power and Conservation Council, term to expire January 15, 2013.

SCHROEDER, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 3, 2010

The RESOURCES AND ENVIRONMENT Committee reports out [S 1355](#), [S 1343](#), and [H 416](#) with the recommendation that they do pass.

SCHROEDER, Chairman

[S 1355](#), [S 1343](#), and [H 416](#) were filed for second reading.

March 3, 2010

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 514](#) with the recommendation that it do pass, and with the recommendation that they be placed on the Consent Calendar.

HILL, Chairman

[H 514](#) was filed for second reading.

March 3, 2010

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 516](#) with the recommendation that it do pass.

HILL, Chairman

[H 516](#) was filed for second reading.

March 4, 2010

The FINANCE Committee reports out [S 1388](#) with the recommendation that it do pass.

CAMERON, Chairman

[S 1388](#) was filed for second reading.

On request by Senator Fulcher, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 4, 2010

The Honorable Brad Little
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Darrell Kerby of Bonners Ferry, Idaho, to be Acting State Senator for Legislative District 1, Bonner and Boundary, State of Idaho.

This appointment is effective March 4, 2010, and will continue until such time as Senator Shawn Keough is able to resume her duties.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. "Butch" Otter
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO

CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents, that pursuant to the provisions of Section 59-917, *Idaho Code*, Shawn Keough, State Senator, District 1, Bonner and Boundary, State of Idaho, has nominated Darrell Kerby of Bonners Ferry, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 1, Bonner and Boundary.

NOW, THEREFORE, I, C. L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Darrell Kerby to the office of State Senator, District 1, Bonner and Boundary, State of Idaho, for a term commencing on March 4, 2010, and continuing until such time as Senator Keough is able to resume her duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this Third day of March, in the year of our Lord two thousand and ten and of the Independence of the United States of America, the two hundred and thirty-fourth year.

/s/ BY THE GOVERNOR C. L. "BUTCH" OTTER
/s/ SECRETARY OF STATE BEN T. YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

March 4, 2010

The Honorable Brad Little
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

[S 1253](#), [S 1254](#), and [S 1255](#)

As Always - Idaho, *Esto Perpetua*
/s/ C. L. "Butch" Otter
Governor of Idaho

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

March 3, 2010

Dear Mr. President:

I transmit herewith Enrolled [HJM 9](#) and [H 382](#), as amended in the Senate, for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled [HJM 9](#) and [H 382](#), as amended in the Senate, and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced that [HCR 39](#) was before the Senate for final consideration.

Moved by Senator LeFavour, seconded by Senator Lodge, that [HCR 39](#) be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES—Andreason, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, LeFavour, Lodge, Malepeai, McGee, McKenzie, Schroeder, Smyser, Stennett (Stennett), Werk, Winder. Total - 25.

NAYS—Bair, Fulcher, Geddes, Mortimer, Pearce, Siddoway. Total - 6.

Absent and excused—Davis, Keough, McKague, Stegner. Total - 4.

Total - 35.

Whereupon the President declared [HCR 39](#) adopted, title was approved, and the resolution ordered returned to the House.

The President announced that [HCR 45](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Heinrich, seconded by Senator Bilyeu, [HCR 45](#) was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

Senator McKague was recorded present at this order of business.

The President announced that the Health and Welfare Committee report relative to the Gubernatorial appointment of Kent Ireton was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Coiner, seconded by Senator Bock, the Gubernatorial appointment of Kent Ireton as a member of the Commission for the Blind and Visually Impaired was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Transportation Committee report relative to the Gubernatorial appointment of Charles "Chip" A. Kemper was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Mortimer, seconded by Senator Bilyeu, the Gubernatorial appointment of Charles "Chip" A. Kemper as a member of the Idaho Aeronautics Advisory Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1397

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLE DRIVER'S LICENSES; AMENDING SECTION 49-326, IDAHO CODE, TO PROVIDE THAT A PHYSICIAN WHO HAS REASON TO BELIEVE THAT AN INDIVIDUAL IS INCOMPETENT TO DRIVE A MOTOR VEHICLE MAY SUBMIT A REPORT AND TO PROVIDE THAT IF A PHYSICIAN SUBMITS A REPORT IN GOOD FAITH, NO PROFESSIONAL DISCIPLINARY PROCEDURE, NO MONETARY LIABILITY AND NO CAUSE OF ACTION MAY ARISE AGAINST THE PHYSICIAN FOR SUBMISSION OF THE REPORT.

S 1398

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO MOTOR VEHICLES AND CRIMES AND PUNISHMENT; AMENDING SECTION 18-8005, IDAHO CODE, TO REVISE CERTAIN PENALTY PROVISIONS.

S 1399

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO PHYSICIANS AND SURGEONS; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1821, IDAHO CODE, TO PROVIDE NO PHYSICIAN-PATIENT RELATIONSHIP FOR CERTAIN INFORMAL CONSULTATIONS.

[S 1397](#), [S 1398](#), and [S 1399](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senator Stegner was recorded present at this order of business.

[H 464](#) and [H 465](#), by Agricultural Affairs Committee, were read the second time at length and filed for third reading.

[S 1344](#), by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

[H 481](#) and [H 483](#), by Health and Welfare Committee, were read the second time at length and filed for third reading, Consent Calendar.

[H 482](#), by Health and Welfare Committee, was read the second time at length and filed for third reading.

[H 513](#), by Revenue and Taxation Committee, was read the second time at length and filed for third reading.

[S 1357](#), [S 1359](#), and [S 1360](#), by Transportation Committee, were read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out [S 1364](#), without recommendation and without amendment; and [S 1340](#), [S 1352](#), [S 1365](#), and [S 1378](#), without recommendation, amended as follows:

SENATE AMENDMENT TO S 1340

AMENDMENT TO SECTION 2

On page 2 of the printed bill, in line 35, following "(2)" insert: "[a](#)".

SENATE AMENDMENT TO S 1352

AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 26, following "or" insert: "manual"; delete line 27, and insert: "transmission of written communications via handheld wireless devices except that texting by persons driving law enforcement, fire or emergency medical vehicles shall be exempt while engaging in the course and scope of their duties. This definition does not include voice-operated or hands free devices that allow the user to review, prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function.".

AMENDMENT TO SECTION 3

On page 5, in line 4, following "a" insert: "moving"; and in line 5, following "driving" insert: "provided this does not apply to voice-operated or hands free devices that allow the user to review,".

prepare and transmit a text message without the use of either hand except to activate, deactivate or initiate a feature or function".

SENATE AMENDMENT TO S 1365

AMENDMENT TO SECTION 2

On page 2 of the printed bill, in line 9, delete "The amount contractually committed in a year shall not exceed"; and delete line 10, and insert: "~~The amount contractually committed in a year shall not exceed the annual amount deposited in the rural physician incentive fund.~~".

CORRECTION TO TITLE

On page 1, in line 4, following "CODE," insert: "TO DELETE A PROVISION RELATING TO THE AMOUNT CONTRACTUALLY COMMITTED IN A YEAR AND".

SENATE AMENDMENT TO S 1378

AMENDMENT TO SECTION 2

On page 6 of the printed bill, in line 7, delete "an Idaho address" and insert: "the address of a law enforcement officer's employing entity."? delete lines 8 through 10? in line 15, delete "or former employing entity"? delete lines 24 through 26, and insert:

"(d) A sworn statement by the law enforcement officer that such officer knowingly and voluntarily designates his or her employing entity as agent for purposes of service of process and receipt of first class, certified or registered mail."?

in line 36, delete "or former justice,"? in line 37, delete "judge, magistrate, prosecuting attorney,"? in line 38, following "correctional officer" delete "and" and insert: ","? in line 39, following "officer" insert: "and any person who prosecutes criminal cases"? also in line 39, following "." insert: "The term "law enforcement officer" shall not include a person who holds an elected office."

On page 7, in line 33, following "chapter" insert: "for a period of four (4) years. Thereafter, law enforcement officers may renew the exemption by submitting a new application and fee, if any"? in line 39, following "on all" insert: "applications and on all"? in line 45, following "to be a" insert: "law enforcement officer or a"? also in line 45, following "member(s)." insert: "Within thirty (30) days of such cessation, the person shall notify, in writing, every public agency to which the person has made an application stating that he or she is no longer eligible for such exemption. If a law enforcement officer changes employment but is still eligible for an exemption under this chapter, such law enforcement officer shall, within thirty (30) days of changing employment, submit a new application to every public agency to which such officer has made an application."; and in line 48, following "member(s)." insert: "A law enforcement officer who has submitted an application pursuant to the provisions of this chapter shall provide his or her current Idaho residential street address to his or her employing entity."

On page 8, in line 1, delete "governmental entity" and insert: "public agency".

AMENDMENT TO SECTION 3

On page 9, in line 2, following "administration," insert: "If an applicant has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address."; and in line 17, delete "If" and delete lines 18 through 21.

AMENDMENT TO SECTION 5

On page 14, in line 10, following "number." insert: "If an applicant has submitted an application pursuant to the provisions

of chapter 58, title 19, Idaho Code, then the applicant may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her residence address."; in line 15, delete "~~and. If an~~"; delete lines 16 through 18; and in line 19, delete "her Idaho residence address. All" and insert: ", and all".

AMENDMENT TO SECTION 6

On page 15, in line 13, following "address." insert: "If the owner has submitted an application pursuant to the provisions of chapter 58, title 19, Idaho Code, then the owner may state, in the application required pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her physical domicile address."? in line 25, delete "~~and If an applicant has~~"; delete lines 26 through 28; and in line 29, delete "address. All" and insert: "and all".

CORRECTION TO TITLE

On page 1, in line 10, following "CONTENTS OF" delete "A DRIVER'S" and insert: "A CERTAIN APPLICATION"? in line 11, delete "LICENSE AND INSTRUCTION PERMIT"; in line 14, following "CONTENT OF A" delete "CERTIFICATE OF REGISTRATION" and insert: "CERTAIN APPLICATION"? and in line 16, following "OF A" delete "CERTIFICATE OF TITLE" and insert: "CERTAIN APPLICATION".

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Werk, the report was adopted by voice vote.

S 1340, as amended, S 1352, as amended, S 1365, as amended, and S 1378, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

S 1364 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:10 p.m. until the hour of 10:30 a.m., Friday, March 5, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary